

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICORP, INC.

and

Case 4--CA--18955

LOCAL LODGE #2367, DISTRICT  
LODGE #98, INTERNATIONAL  
ASSOCIATION OF MACHINISTS AND  
AEROSPACE WORKERS, AFL--CIO

DECISION AND ORDER

*By Members Crockraft, Devaney, and Oviatt*  
Upon a charge filed by the Union on May 31, 1990, the General Counsel of the National Labor Relations Board issued a complaint and an amendment to the complaint against Americorp, Inc., the Respondent, alleging that it has violated Section 8(a)(1), (3), and (5) of the National Labor Relations Act. Although properly served copies of the charge, the complaint, and the amendment to the complaint, the Respondent has failed to file an answer.

On November 9, 1990, the General Counsel filed a Motion for Summary Judgment with exhibits attached. On November 15, 1990, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, ''all of the allegations in the Complaint shall be deemed to be admitted to be true and may be so found by the Board.''

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

Findings of Fact

I. Jurisdiction

The Respondent is an Idaho corporation engaged in the provision of food services for the U.S. Army at Fort Indiantown Gap, Annville, Pennsylvania. During the year preceding issuance of the complaint, the Respondent derived gross revenues in excess of \$500,000 and received Government subsidized food valued in excess of \$2500 from companies located outside the Commonwealth of Pennsylvania. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

At all times material the Respondent has recognized the Union as the exclusive bargaining representative of its employees in the unit referred to in the parties' most recent collective-bargaining agreement, which is effective by its terms from April 13, 1990, through April 12, 1993. The unit is appropriate for bargaining within the meaning of Section 9(b) of the Act.

The Union is now, and has been at all times material, the exclusive representative of the unit under Section 9(a) of the Act.

On or about May 1, 1990, the Respondent, acting through Dee Costetter, its chief executive officer and a supervisor within the meaning of Section 2(11) of the Act, threatened an employee with loss of future employment because the employee supported and assisted the Union. By this threat, the Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing, employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

On or about May 1, 1990, the Respondent, acting through Renee Bittihofer, its manager and a supervisor within the meaning of Section 2(11) of the Act, and Dee Costetter, discharged its employee Marie Matarazzi. At all times since about May 1, 1990, the Respondent has failed and refused to reinstate Marie Matarazzi. The Respondent engaged in, and is engaging in, this conduct because Marie Matarazzi supported and assisted the Union. By the discharge of and failure and refusal to reinstate Marie Matarazzi, the Respondent has discriminated and is discriminating in regard to the hire, tenure, or terms or conditions of employment of its employees, thereby discouraging union membership, in violation of Section 8(a)(3) and (1) of the Act.

On or about April 23, 1990, the Respondent repudiated article 9, the Grievance Procedure, of the parties' collective-bargaining agreement. About May 1990, the Respondent repudiated articles 11, 12, 15, and 17 of the agreement concerning holidays, vacation, overtime, and wages. By repudiating these articles of the parties' agreement, the Respondent has failed and refused, and is failing and refusing, to bargain collectively and in good faith with the representative of its employees in violation of Section 8(a)(5) and (1) of the Act.

## Conclusions of Law

1. By threatening an employee with loss of future employment because of the employee's support of and assistance to the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

2. By discharging and failing and refusing to reinstate employee Marie Matarazzi, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and (1) and Section 2(6) and (7) of the Act.

3. By repudiating various terms of its collective-bargaining agreement with the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## Remedy

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

We shall order the Respondent to offer reinstatement to Marie Matarazzi and to make her whole for any losses suffered because of the discharge and Respondent's failure and refusal to reinstate her as prescribed in F. W. Woolworth, 90 NLRB 289 (1950), plus interest. We shall also, in accordance with the General Counsel's request, order the Respondent to process any grievances which existed or arose under the parties' collective-bargaining agreement during the period from on or about April 23, 1990, through May 31, 1990, and otherwise comply with the terms of its collective-bargaining agreement with the Union. We shall further order the Respondent to make the unit employees whole for any losses they may have suffered as a result of the

Respondent's failure to comply with the collective-bargaining agreement, in the manner prescribed in Ogle Protection Service, 183 NLRB 682 (1970), plus interest. Interest on any amounts due shall be computed as prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Americorp, Inc., Annville, Pennsylvania, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening employees with loss of future employment because those employees supported and assisted Local Lodge #2367, District Lodge #98, International Association of Machinists and Aerospace Workers, AFL--CIO.

(b) Discharging and failing and refusing to reinstate employees because those employees supported and assisted the Union.

(c) Refusing to bargain by repudiating the terms of its collective-bargaining agreement with the Union as the exclusive representative of employees in an appropriate unit.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer Marie Matarazzi immediate and full reinstatement to her former position or, if that position no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights and privileges previously enjoyed, and make her whole for any loss of earnings and

other benefits suffered as a result of the discrimination against her, in the manner set forth in the remedy section of this decision.

(b) Remove from its files any reference to the unlawful discharge of Marie Matarazzi and notify her in writing that this has been done and that the discharge will not be used against her in any way.

(c) Process any grievances that existed or arose under the parties' collective-bargaining agreement during the period from about April 23, 1990, through May 31, 1990.

(d) Adhere to the terms and conditions of its collective-bargaining agreement with the Union, including the provisions concerning the grievance procedure, holidays, vacation, overtime, and wages.

(e) Make whole unit employees for any loss of benefits suffered as a result of the Respondent's repudiation of the terms of its collective-bargaining agreement with the Union, in the manner set forth in the remedy section of this decision.

(f) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(g) Post at its facility in Annville, Pennsylvania, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon

---

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(h) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. January 31, 1991

\_\_\_\_\_  
Mary Miller Cracraft, Member

\_\_\_\_\_  
Dennis M. Devaney, Member

\_\_\_\_\_  
Clifford R. Oviatt, Jr., Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT threaten you with loss of future employment because you support and assist Local Lodge #2367, District Lodge #98, International Association of Machinists and Aerospace Workers, AFL--CIO.

WE WILL NOT discharge and fail and refuse to reinstate you because you support and assist the Union.

WE WILL NOT refuse to bargain by repudiating the terms of our collective-bargaining agreement with the Union as the exclusive bargaining representative of employees in the unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer Marie Matarazzi immediate and full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to seniority or any other rights and privileges previously enjoyed. WE WILL make her whole for any loss of earnings and other benefits suffered as a result of the discrimination against her, with interest.

WE WILL remove from our files any reference to the unlawful discharge of Marie Matarazzi and notify her in writing that this has been done and that the discharge will not be used against her in any way.

WE WILL process any grievances that existed or arose under our agreement with the Union during the period from about April 23, 1990, through May 31, 1990.

WE WILL adhere to the terms and conditions of our collective-bargaining agreement with the Union, including the provisions concerning the grievance procedure, holidays, vacation, overtime, and wages.



WE WILL make whole unit employees for any loss of benefits suffered as a result of our repudiation of our collective-bargaining agreement with the Union, with interest.

AMERICORP, INC.

-----  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 615 Chestnut Street, 7th Floor, Philadelphia, Pennsylvania 19106-4404, Telephone 215--597--7643.